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# **GENDER JUSTICE IN INDIA: A SOCIO-LEGAL STUDY**

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## **ABSTRACT**

The evolution of Indian gender justice from prehistoric times to the present is examined in this socio-legal research. This study analyses the legal and historical context that has formed gender justice including important constitutional clauses including clauses 14, 15, and 21, therefore, providing equal treatment and protection against discrimination. Reviewing important court decisions helps one to emphasize their influence on the legal landscape. Together with the cultural, religious, and social impediments stopping the attainment of gender equality, this research explores the socio-legal difficulties experienced by women including gender discrimination in legal and social environments. Particularly in relation to caste and class intersectionality, the contradictions of gender-based violence are under more and more attention. This paper also looks at the current advances in the movements for women's rights as well as the effects of most recent laws. Examining past events leading to significant legislative changes emphasises how the court is growing in favour of gender justice. By means of an analysis of these elements, this paper aims to provide a comprehensive knowledge of gender justice in India together with the ongoing challenges in its application. The research recommends continuous initiatives to solve social and legal injustices to build a society fairer for all genders.

## **Keywords**

Gender, Justice, Socio-Legal Challenges, Gender-Based Violence, India

## **INTRODUCTION**

Women and underprivileged genders now face governmental barriers that often come from historical, religious, and cultural biases. These problems are especially clear-cut in India since strongly rooted patriarchal structures create disparities in access to resources, opportunities, and representation. The Indian Constitution has many sections, such as Articles 14, 15, and 21, to stress how important it is for men and women to have the same rights and to be treated

equally.<sup>1</sup> The goal of gender justice is to treat men and women equally in all areas of life, including social, political, legal, and financial ones. It is an important part of society's growth. No matter what, it has been hard to turn these legal systems into useful social settings. Some important court decisions that have greatly improved gender equality are *Shayara Bano v. Union of India*<sup>2</sup> and *Vishakha v. State of Rajasthan*<sup>3</sup>. These decisions dealt with problems like personal rights and workplace harassment. But the ubiquitous occurrence of gender-based discrimination—which is obvious in many scenarios like political under-representation, economic marginalisation, and gender-based violence—emphasizes the need for a stronger socio-legal policy. The several dimensions of gender justice in India—including its historical and legal roots, socio-legal problems, and current advances—are studied in this paper. Its aim is to draw attention to the present challenges and evaluate how well social programs and present legal systems support women's equality. This socio-legal research aims mostly to significantly add to the public conversation on realising a more fair and inclusive society.

## **HISTORICAL AND LEGAL FRAMEWORK**

### **Evolution of Gender Justice in India (Ancient to Modern)**

Gender justice in India means a slow but steady shift from deeply rooted patriarchal beliefs to new social and legal systems that aim for equality. Vedic texts that stress women's participation in religious and educational activities show that women in ancient India played a very significant and independent role. Still, things got worse for women in later Vedic and mediaeval times, when Sati, child marriage, and purdah, among other social norms, limited their freedoms and increased male dominance, which changed their position. India's first big changes to the law to fix gender inequality happened when the country was a colony. After India got its freedom, it did things better when it came to fair treatment of women. Men and women in India have the same rights under the Indian Constitution, and discrimination based on gender is illegal.<sup>4</sup> This was the first step towards more progressive law changes. Colonial governments tried to make women equal, but they cared more about keeping women in line than giving women more power. In order to fight against outdated ideas, Ishwar Chandra Vidyasagar and Raja Ram Mohan Roy made rules that let widows marry again and got rid of Sati.

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<sup>1</sup> Kumar, S. (2022). Right to equality and gender justice in India. *JJM*, 15(1).

<sup>2</sup> *Shayara Bano vs Union Of India And Ors*, AIR 2017 SC 4609.

<sup>3</sup> *Vishaka & Ors vs State Of Rajasthan & Ors*, AIR 1997 SC 3011.

<sup>4</sup> Rai, M. (2021). Exploring gender justice for attaining equality. *RG*.

In the years after independence, laws like the Dowry Prohibition Act, the Domestic Violence Act, and laws against sexual harassment were passed to show that more was being done to protect women's rights. Recent court decisions, especially important ones that proved women's rights in areas like land and personal law, sped up this progress.<sup>5</sup> In modern India, gender justice is changing all the time thanks to feminist groups around the world, political action, and a court that is open to new ideas. The fight for a fair society is still going on because of things like discrimination based on intersectionality, cultural pushback, violence based on gender, and more.<sup>6</sup>

### **Constitutional Provisions and Key Legislations (Articles 14, 15, 21, etc.)**

Through several important provisions and regulations, the Indian Constitution symbolises gender equality. Irrespective of their gender, Article 14 of the constitution guarantees equal treatment of all subjects by safeguarding the idea of equality before the law and equal protection of the laws. Article 15 expressly outlaws any type of gender-based discrimination, therefore, allowing the state to create especially focused policies designed for the protection of women and children.<sup>7</sup> Article 15(3) enables the adoption of affirmative action plans to eliminate gender inequalities and acknowledges the historical and social effects suffered by women. This encompasses laws and programs designed especially to raise women's social level and encourage fair treatment.

Article 16 guarantees equal opportunities for men and women by extending this criterion of equality to public work. Article 21 protects personal liberty and life; the court has interpreted this as including the right to live with dignity. Achieving gender justice notably in cases of sexual assault and reproductive rights depends on the respect of the right to privacy and bodily autonomy. Furthermore, emphasized in Article 39 of the Directive Principles of State Policy is the requirement of providing men and women with appropriate and humane working circumstances as well as ensuring equal compensation for equal labour. Article 51A(e) of the Indian Constitution says that no one can lower the social status of women.<sup>8</sup> Laws like the Dowry Prohibition Act, the Domestic Violence Act, and the Sexual Harassment of Women at Workplace Act protect the rights of both men and women. All of these regulations, together with the Indian constitution, serve to uphold and enhance women's rights and dignity.

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<sup>5</sup> Narayanan, S. (2019). Historical background of gender equality and succession right of Hindu. RG.

<sup>6</sup> Manda, S. (2020). Gender justice: Road to a humane society. GDC.

<sup>7</sup> Behera, A. (2023). A constitutional analysis: Gender justice in India: Contemporary issues and challenges. WPR.

<sup>8</sup> Ray, S. S. (2020). The higher judiciary's gender representation problem. ACHJ.

## **Major Judicial Pronouncements Impacting Gender Justice**

The Indian court's acceptance of basic law principles has made a big difference in the progress of women's equality. In the 1997 case *Vishakha v. State of Rajasthan*, the Supreme Court ruled that sexual harassment in the workplace should not happen. This set a standard for protecting women's rights in the workplace. In 2017, the case *Shayara Bano v. Union of India* was a big step towards equal rights for men and women in family law. Finally, things got better for Muslim women when triple talaq was made illegal and their rights were protected.

In 2018, the case *Navtej Singh Johar v. Union of India* made being gay less of a crime. This was a step towards equal rights for men and women. In the same year, *Joseph Shine v. Union of India* overturned Section 497 of the Indian Penal Code to support women's and men's equal rights. The court's logic was that the law made adultery illegal because it saw women as more like property than person. For example, the Supreme Court's 2023 publication of the "Handbook on Combating Gender Stereotypes" is an effort to fight gender bias in words and get rid of patriarchal stereotypes in court decisions.

It is important to note that the struggle for gender equality is a continuing one. The early release of Bilkis Bano's sexual assault suspects shows how complicated the system is and how badly society needs these kinds of changes. These decisions and policies show that the court is becoming more aware of female rights, but they can only be used effectively if the court keeps looking at itself and changes the way things are set up.

## **SOCIO-LEGAL CHALLENGES**

### **Gender Discrimination in Law and Society**

The persistent gender gap is reflected in cultural norms and legal systems as well. To keep women from exercising basic rights like land ownership, inheritance, and economic opportunities, many countries have laws that make it harder for them to use those rights. Many countries still have laws restricting women's access to property, employment, and healthcare even when international human rights treaties such as CEDAW outlaw gender-based discrimination. Social conventions help to validate this disparity by encouraging cultural practices and attitudes that support traditional gender roles, therefore, supporting social and economic inequality. Women's potential to exercise self-governance in their lives is much limited by pervasive gender-based violence, denial of sexual and reproductive health rights, and economic marginalization. Since worldwide they support legal governance and gender

equality, institutions such as the United Nations actively advocate the integration of female points of view into all spheres of policy and society.<sup>9</sup> Reaching gender justice, however, calls for a methodical challenge to and change of biased laws and cultural standards allowing women and other people with different gender identities to completely enjoy their fundamental rights.

### **Cultural, Religious and Social Barriers**

Often standing in the path of achieving gender equality are ongoing cultural, religious, and social challenges. From a cultural standpoint, several countries promote patriarchal policies defining traditional gender roles, therefore, restricting women's possibilities to participate in education, employment, and positions of power. These roles help to underline the requirement of women to perform household chores top priority, therefore separating them from public and professional arenas. Sometimes it's hard to get gender equality because of what people believe and do because of their religion. Although many religions support moral and ethical principles, certain readings favour patriarchal institutions, therefore limiting women to less responsibility. The way women dress, get married, and inherit money are just a few of the things that religious rules and customs can affect in women's lives. This can make them less independent and less involved in society.

Along with religious and national convictions, societal elements add to make gender-based discrimination even more difficult to handle. Society's expectations, gender stereotypes, and old traditions keep women from exploring other options in schooling, leadership, or personal growth, which makes them responsible for certain things. People believe that female genital mutilation, child marriage, and honour killings are essential for society to run smoothly, even though they are very bad for women's rights and health.<sup>10</sup> These problems show how important it is to take a broad approach to get rid of governmental barriers as well as the complicated ways that society, religion, and culture keep gender imbalances in place.

### **Gender-Based Violence and Intersectionality (Caste, Class)**

In India, gender-based violence is not only the result of gender inequity but also generally gets more severe when caste and class mix. Sometimes highly ingrained structural inequality in society shows itself as more severe forms of violence experienced by women from lower castes and impoverished areas. Traditional power dynamics between men of different castes have

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<sup>9</sup> Shaikh, W. (2023). Role of Indian judiciary in neutralizing gender equality. LSI.

<sup>10</sup> Bradbury-Jones, C. (2020). A profile of gender-based violence. SSRN.

relied on sexual violence against women of lower castes as a means for the upper castes to consolidate their influence over society and its institutions.<sup>11</sup> Women from lower groups are more likely to be abused and less likely to get justice because of their gender and caste.

The well-known Nirbhaya case from 2012 helped people in India understand how complicated gender-based violence is and how it is linked to other problems. Other cases involving women from lower castes didn't get as much attention as this one, which led to changes in the law and big protests. This shows how race and class affect what people think and what the courts decide. Women from lower-income groups had to deal with a legal system that was biased against them, a public that didn't care about them, and little news in the media. In addition, poverty, lack of knowledge, and limited means make this injustice even worse and don't help these women much in their search for justice.

Violence against women and girls can't be understood in isolation, and intersectionality helps us see this. It talks about many things, like race and class, that affect the kind of violence that happens and how it turns out. Campaigns against gender-based violence need to take an approach that includes all of these identities, making sure that solutions don't miss the fact that women are especially vulnerable because they are affected by gender, caste, and class all at the same time.<sup>12</sup>

## CONTEMPORARY DEVELOPMENTS AND MOVEMENTS

### Women's Rights Movements and Their Impact

Fighting for women's rights has had a big effect on India's social, political, and economic systems throughout the past. A number of organisations began actively campaigning for women's suffrage, equal pay, and the right to vote and own property in the latter part of the nineteenth century. These victories paved the way for further progressive ideas, such as the fight for women's suffrage and equality in the early 20th century. In the 1970s, women's rights in the family changed a lot, especially when it came to divorce and child custody. There has been a marked improvement in the level of respect for women's rights and freedoms this year. As a remarkable example of a contemporary movement, #MeToo brought the divisive topic of sexual harassment and assault to the forefront of public discourse. The initiative started a more

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<sup>11</sup> Annan, K. (2017). Gender justice: Judicial & legislative interventions. Social Science.

<sup>12</sup> UNHCR. (2024, September 16). Gender-based violence. United Nations High Commissioner for Refugees. <https://www.unhcr.org/what-we-do/protect-human-rights/protection/gender-based-violence>.

general discussion on consent, occupational safety, and gender relations in India and allowed women to tell their stories freely. To defend women's rights, the movement demanded major reforms in business practices, therefore challenging the conventional silence on sexual harassment.<sup>13</sup>

The Anti-Liquor Movement and the Narmada Bachao Andolan accurately depict the primary achievements of women in achieving social and environmental justice. People were motivated to work hard to solve these important problems by the groups that brought attention to the unfair effects of drinking and environmental damage on women. The Women's India Association also provided working women—especially from underprivileged backgrounds—a forum on which to express their problems and seek freedom. In addition to major legislative and judicial victories, these political measures have had a huge effect on how people think about women in general. Notwithstanding the ongoing challenges, the impact of these movements is seen in the increasing participation of women in politics, business, and social changes, thereby allowing development towards a society more equitable.<sup>14</sup>

### **Recent Legal Reforms**

New laws in India have made it even more important to fight gender stereotypes and give all Indians similar rights. The Supreme Court's publication of the "Handbook on Combating Gender Stereotypes" is a huge step forward, especially in this area. The rules' gender-sensitive approach is meant to change public thinking on gender and help poor groups' mental health. For instance, the idea has been reinterpreted by replacing "prostitute" for "sex worker," therefore seeing sex work as a job rather than something innately bad. Though little, these language changes have a big impact on raising sensitivity, tolerance, and legal system deconstruction of firmly ingrained prejudices.

Modern changes include using gender-neutral language throughout the whole process of making laws. Under the Digital Personal Data Protection (DPDP) Act, 2023 the pronouns "she" alludes to many people opposing gender-based harassment. Some people have said that this choice doesn't fully meet the wants of the LGBTQIA+ community. This is why it's important to make "he's pronouns more inclusive." As an example, the Multi-State Co-Operative

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<sup>13</sup> Butera, F. (2017). Women, women's rights and feminist movements. *Social Science Information*, 44(1).

<sup>14</sup> Council of Europe. (2024). Feminism and women's rights movements. Council for Europe. <https://www.coe.int/en/web/gender-matters/feminism-and-women-s-rights-movements>.

Societies (Amendment) Act, 2023 is talked about in some laws using "he/him." This shows that laws don't always use language that doesn't depend on gender.<sup>15</sup>

Some say that congressional records should use the adverb "they/them," which doesn't usually mean a person's gender, to get more women involved. This approach reflects trends seen elsewhere, notably those of the European Parliament, in which the recommended title is "Chair," rather than "Chairman." More targeted efforts are needed, like the ones started in Malta. However, India's recent successes, such as the SC Handbook and policies that support diversity, are encouraging. Such acts should aim to offer a really complete legal framework free from just employing terminology that does not fairly depict the reality of the less fortunate sections of society.

### **The Role of Judiciary and Landmark Cases**

The Indian government has made a lot of progress towards equal rights for men and women. Their interpretations of legislation and consequential rulings that dismantle gender stereotypes are also noteworthy. The court's main job is to make sure that the laws support equality and protect the rights of women who are hurt. The Supreme Court made important decisions like *Vishakha v. State of Rajasthan* (1997) that set out detailed rules to stop sexual harassment at work. These rules filled in a legal gap and formed the base for the Sexual Harassment of Women at Workplace Act, 2013. This case underlined how aggressively the court should protect women's rights in companies.

The court also examined personal laws often demonstrating gender discrimination against women. Triple talaq is illegal, the Supreme Court said in the *Shayara Bano v. Union of India* (2017), therefore, validating the claim of Muslim women to equality and freedom from discrimination inside the institution of marriage. The court in *Joseph Shine v. Union of India* (2018) nullified Section 497 of the IPC, which treated women as slaves of their husbands, therefore invalidating the criminalisation of adultery. These decisions reveal how the court currently sees growing personal liberty and women's equality.<sup>16</sup>

Among other recent initiatives, the Supreme Judicial has undertaken to develop gender-

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<sup>15</sup> Bar and Bench. (2024, March 8). International Women's Day: 24 Supreme Court judgments on women's rights in India. Bar and Bench. <https://www.barandbench.com/columns/litigation-columns/international-womens-day-24-supreme-court-judgments-womens-rights-india>

<sup>16</sup> Collins, A. (2019). Gender-based violence. ECP.

sensitive terminology, exhibit a steady change towards more inclusive judicial procedures, and publish the "Handbook on Combating Gender Stereotypes" in 2023. The court wants to promote the usage of gender-neutral words, such as "sex worker," in preference to "prostitute," thereby creating a more inclusive and less stigmatising legal environment. This approach demonstrates the court's understanding of the major influence language has on social impressions and legal results. Although these significant decisions and projects show development, problems still persist. In the Bilkis Bano case, the early release of the criminals shows structural flaws and the differences between what the courts say and what they do. When it comes to gender justice, the court has been somewhat helpful. Still, it is imperative to keep up ongoing efforts to make sure laws and their application reflect inclusive values and equality.

## CONCLUSION

Legislative reforms, court decisions, and social movements together help to define India's several ongoing efforts at gender equality. Gender inequality happens even though the law says that everyone should be treated equally. This is because of deeply rooted cultural, religious, and social barriers. *Vishakha v. State of Rajasthan* and *Shayara Bano v. Union of India* are two court decisions that have made it easier for women to fight for their rights and plan for the next level of empowerment. However, in places where caste and income intersect, these legal aspects are particularly disregarded, particularly with regard to women. This demonstrates the necessity of a more all-encompassing approach. "Handbook on Combating Gender Stereotypes," which was released by the Supreme Court, is one of the newest efforts to make law and judicial language more gender-sensitive. These show how aware people are of the power of words to change people's minds and help them fit in with society through influence. These projects have a lot of potential, but they need to be part of a bigger plan to fix structural problems and make people smarter.

From the early battles for voting rights and education to more recent ones like #MeToo, the continuous influence of women's movements demonstrates how public participation may quicken societal change. However, these programs alone are not sufficient to bring about long-lasting changes in institutions and the government. Real gender justice depends on constant support from all spheres of society, including civil society, legislators, and judges. This makes sure that equality is more than just a law idea and is a real thing for everyone, no matter what religion they follow.

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